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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/663,304 | 09/16/2003 | Kallol Bera | 8477/ETCH/DRIE | 1356 |
| 55649 | 7590 | 11/22/2005 | EXAMINER | |
| MOSER IP LAW GROUP / APPLIED MATERIALS, INC. 1040 BROAD STREET 2ND FLOOR SHREWSBURY, NJ 07702 | | | PHAM, THANH V | |
| | | | ART UNIT | PAPER NUMBER |
| | | | | 2823 |

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|---|------------------------|---------------------|
| Advisory Action Before the Filing of an Appeal Brief | Application No. | Applicant(s) |
| | 10/663,304 | BERA ET AL. |
| | Examiner | Art Unit |
| | Thanh V. Pham | 2823 |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires 3 months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) They raise the issue of new matter (see NOTE below);
 (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. Applicant's reply has overcome the following rejection(s): _____.
 6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. Other: _____.

Response to Arguments

1. Applicant's arguments filed 11/04/2005 have been fully considered but they are not persuasive.
2. Claims 1-17 and 40-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jiang et al. US 6,797,63 B2 in combination with Ma et al. US Pub. 204/0161930 A1, Ikeda US 6,426,299 B1, Chun et al. TW 544815 A and Samukawa et al. US 6,177,146 B1.
3. The Jiang et al. reference discloses substantially all of the steps of the instant invention without providing a plasma source power of at least about 1000 Watts and a bias power of at least about 800 Watts during at least a portion of step (d). Thus, the Ma et al. reference is used for providing a plasma source power of at least about 1000 Watts and the Ikeda is used for providing a plasma source power of at least about 1000 Watts and a bias power of at least about 800 Watts during at least a portion of step (d). Ma et al.'s silence on the bias power applied is compensated/modified by Ikeda's. Further, the three step discharge sequence of Ma et al. (pointed to by applicant as in the rejection) in [0014] and [0026] can be understand throughout the Ma et al. reference as a whole, especially in [0017], [0028] and [0031], to be parts of the etching step as claimed.
4. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

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combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the reason for the combination of Jiang et al. and Ma et al. or Ikeda is stated as above and in the Final rejection in the Office action mailed 08/08/2005. The test for obviousness is also provided.

5. In response to applicant's argument in pages 7 and 8 regarding F radicals ~~and Si~~ reduction, the pointed to teachings of Ikeda do not negate the argument that Ikeda teaches use of the recited bias power during at least a portion of the etch process as shown by fig. 4, i.e. the upper electrode would not be ground during the entire etching step.

6. Applicant's arguments on Chun and Samukawa are responded the same as in the above.

7. The rejections are maintained as stated in the Final rejection in the Office action mailed 08/08/2005.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh V. Pham whose telephone number is 571-272-1866. The examiner can normally be reached on M-T (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Smith can be reached on 571-272-1907. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TWP

11/09/2005



George Rourson
Primary Examiner